

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



Tavarez,

Plaintiff,

—v—

Aqua Elite Events Inc.,

Defendant.

21-cv-9979 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

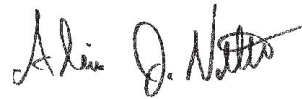
On February 28, 2022, Defendant Aqua Elite Events Inc. filed a motion to dismiss. Pursuant to Rule 3.E. of this Court’s Individual Practices in Civil Cases, on or before March 10, 2022, Plaintiff must notify the Court and its adversary in writing whether (1) it intends to file an amended pleading and when it will do so or (2) it will rely on the pleading being attacked. Plaintiff is on notice that declining to amend its pleadings to timely respond to a fully briefed argument in the Defendants’ February 28 motion to dismiss may well constitute a waiver of the Plaintiff’s right to use the amendment process to cure any defects that have been made apparent by the Defendant’s briefing. *See F5 Cap. v. Pappas*, 856 F.3d 61, 90 (2d Cir. 2017) (upholding denial of leave to amend where plaintiff had “an opportunity to amend in response to full briefing of the defendants’ motion to dismiss”).

If Plaintiff chooses to amend, Defendant may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that it relies on the initially-filed motion to dismiss.

Nothing in this Order alters the time to amend, answer or move provided by the Federal Rules of Civil Procedure or Local Rules.

SO ORDERED.

Dated: February 28, 2022
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", with a stylized flourish at the end.

ALISON J. NATHAN
United States District Judge